



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,285	11/30/2001	Stephan A. Schunk	078096-0106	2638

7590 05/31/2006

Stephen D. Scanlon
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114

EXAMINER

SIEFKE, SAMUEL P

ART UNIT	PAPER NUMBER
----------	--------------

1743

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,285

Applicant(s)

SCHUNK, STEPHAN A.

Examiner

Samuel P. Siefke

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status

Claims 32-50 are currently pending in the instant application. This Office Action is in response to the arguments dated 3/10/06.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Maloy et al. (USPN 4,546,897).

Maloy discloses an inert atmosphere transfer vessel that comprises a vessel (10, air impervious) that accepts a sample under a controlled (inert) atmosphere (glove box) for analytical examination which must be protected during transfer (col. 2, lines 35-41). Once the sample is received in the vessel in the glove box (synthesis chamber), the vessel is sealed and placed into a vacuum pass box of the analytical instrument for evacuation. It is inherent that a vacuum pass box comprises valve that allows the vacuum to be created and the box passed between the glove box and the testing chamber. During the evacuation process (releasing the sample), the sample is exposed for analysis without direct handling during the puncture process (col. 3, lines 6-28). The

vessel is made out a metal (col. Col. 3, lines 1-5) and comprises a cot (gas-tight), or expandable cover that is pierced (mechanically destroyed) when the sample is received in the analysis chamber (test reactor). Maloy discloses that the controlled atmosphere within the glove box is inert gas (noble gas). Therefore it is inherent that an inert atmosphere comprises an inert gas, of which includes argon, nitrogen and helium (col. 3, lines 15-28). In another embodiment the vessel comprises lid with a spring, which upon entering the analysis chamber the spring withdraws the lid to expose the enclosed sample for analysis (col. 4, lines 7-24). It is inherent that this embodiment is automated because a user will not be able to open the lid on the vessel because it is in a controlled atmosphere.

Response to Arguments

Applicant's arguments filed 3/10/06 have been fully considered but they are not persuasive. Applicant argues, "Maloy does not disclose any of these structures or materials or equivalents thereof." This argument is referring to the means located within the test reactor to destroy the vessel in order to open the vessel. The Examiner interprets the puncturing of the cot by end point 20 mechanically destroying the vessel because there is a mechanical feature, the point 20, which mechanically punctures and tears open the cot thereby exposing the sample in the enclosure. The applicant cites an example "such as" a rotating stirring element. The phrase "such as" renders the example indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Further the point 20 is an equivalent to the stirring

element because they both accomplish the same purpose, i.e. destroying the lid (cot) and exposing the sample. The other means for destroying the vessel is by impacting the vessel in the reactor. This can also be interpreted by the cot being impacted by the point 20. Therefore the limitations of the means for destroying the vessel are met.

Regarding the arguments directed to claim 45, see col. 3, lines 6-28 for explicit teaching of a glove box and its use. It is inherent that this embodiment is automated and includes valves because a user will not be able to open the lid on the vessel because it is in a controlled atmosphere where pressure applications are implemented.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel P. Siefke whose telephone number is 571-272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sam P. Siefke



May 26, 2006


Jill Warden
Supervisory Patent Examiner
Technology Center 1700